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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,422	07/13/2001	David Kramer	6606	4722
7590 02/26/2004				
The Sherwin-Williams Company 11 Midland Bldg. - Legal Dept. 101 Prospect Avenue, N.W. Cleveland, OH 44115		EXAMINER MOORE, MARGARET G		
		ART UNIT PAPER NUMBER		
		1712		

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/905,422

Applicant(s)KRAMER ET AL. *eb***Examiner**

Margaret G. Moore

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 to 17 is/are allowed.
- 6) ☒ Claim(s) 1 to 11, 18 to 23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/16/01</u> . | 6) <input type="checkbox"/> Other: ____ |

1. This application has been transferred to Examiner Margaret Moore. The previous examiner issued a restriction requirement and in a telephone interview with Arthi Tiery on February 11, 2004, applicants elected with traverse Group I, which consisted of claims 1 to 17. However, upon a review of the prior art, the instant examiner does not believe that a restriction requirement is necessary as examining both groups of claims does not place an undue burden on the examiner. As such claims 1 to 21 are under consideration.

2. Claims 1 - 11 and 18 - 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what constitutes the polymerizable resin. Specifically, claim 2 appears to contrast with claim 1 in that claim 1 contains a *resin* while claim 2 contains reactants that *form a resin*. The monomers and oligomers in claim 2 are not resin components. Thus it is unclear from these claims if claims 1 and 19 contain a resin or a mixture of monomers and oligomers. Clarification is required.

In claim 4, it is confusing to state that the polyacrylate monomer is ethoxylated bisphenol A since the latter is not an acrylate monomer.

In claim 6, it is confusing and seemingly inappropriate to state that the promoted peroxide *further comprises* an enolizable ketone since page 6 of the specification defines the promoted peroxide as a mixture of an organic peroxide and an enolizable ketone. Thus by definition an enolizable ketone is already required in the promoted peroxide.

3. Claims 12 to 17 are allowed. Claims 1 to 11 and 18 to 21 are neither taught nor suggested by the prior art. Specifically the prior art fails to teach the required combination of a promoted peroxide in combination with a synergistic combination of a polymer bound catalyst and an aromatic tertiary amine, which function to increase the rate of

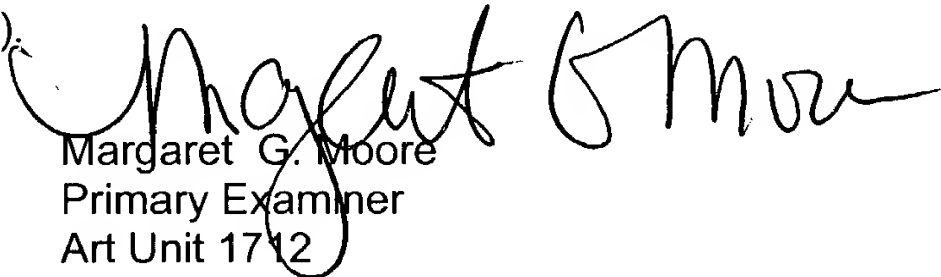
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decomposition of the promoted peroxide. Nonaka et al., Dischö and Frieese are cited as being of general interest.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
2/18/04